



THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF CAMPAIGN & POLITICAL FINANCE

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MARY F. MCTIGUE
DIRECTOR

December 7, 1989
AO-89-28

Robert B. Kennedy
390 Pawtucket Street
Lowell, MA 01854

Dear Mr. Kennedy:

This letter is in response to your recent request for an advisory opinion.

You have stated that you are a candidate for City Councillor in the City of Lowell. You wish to know if you may use the City Council Chamber in Lowell City Hall as a backdrop for a political advertisement. You intend to use the advertisement to promote your candidacy for City Councillor. You have stated the sole purpose of the advertisement is to promote your candidacy and the issue of live television coverage of the City Council meetings.

M.G.L. c.55 governs the regulation of campaign finance activity in Massachusetts, which includes the use of government resources for political purposes. The Supreme Judicial Court in Anderson vs. City of Boston (376 Mass. 178, 1978) stated that M.G.L. c.55 was "intended to reach all political fundraising and expenditures within the Commonwealth If the Legislature had expected that municipalities would engage in such activities or intended that they could, M.G.L. c.55 would have regulated those activities as well."

Section 22A of M.G.L. c.55 prescribes a reporting procedure for expenditure of funds by a municipality to influence or affect the vote on a question submitted to the voters. The statute does not describe a similar procedure for reporting municipal expenditures for the purpose of nominating or electing a candidate and, as the Court stated in Anderson, because such expenditure is not expressly permitted, it is prohibited.

It is therefore the opinion of this office that the use of the City Council Chamber in Lowell City Hall as a backdrop for a political advertisement for your candidacy would be prohibited under M.G.L. c.55 as a municipal contribution for the purpose of nominating or electing a candidate unless (a) all candidates for City Council are

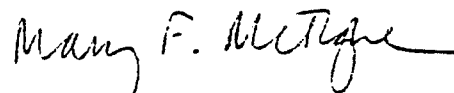
afforded a similar opportunity to use the City Council Chamber and (b) the City of Lowell is reimbursed by your political committee for all out-of-pocket expenses, if any, such as janitorial fees, security costs and the like, incurred in your use of the City Council Chamber for a political advertisement.

We would also alert you to the prohibition contained in section 14 of M.G.L. c.55 against demanding, soliciting or receiving any payment or gift of money or other thing of value for political purposes. The advertisement to be filmed in the City Council Chamber should therefore not be of a fundraising nature.

This opinion has been rendered solely on the basis of the representations made in your letter and solely in the context of M.G.L. c.55.

Please do not hesitate to contact this office should have any additional questions.

Very truly yours,



Mary F. McTigue
Director

MFM/wp